

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO.9102/2005.

Latur
Vs.
Ram Bilas and anr.

Date of Order : 20/8/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri S.S. Hasan for the petitioner.
Shri Veyankatesh Garg for the respondents.

BY THE COURT:-

Heard learned counsel for the parties.

2) The petitioner has challenged the order dated 26/10/2005 whereby his election petition assailing the election of respondent No.1 as Sarpanch to the office of Gram Panchayat Bhojya Khedi, Panchayat Samiti Anta, District Baran held and declared on 31/1/2005 was rejected.

3) Learned counsel for the petitioner argued that the finding on Issue No.1 has not been correctly recorded by the Election Tribunal i.e. District and Sessions Judge, Baran. It was argued that the petitioner had produced two witnesses, AW1 himself and AW2 Ramchandra who stated on oath that in all

2098 votes were casted but when counting took place, only 1998 votes were found in the ballot box. Learned counsel further argued that in fact in all 2098 votes were casted but out of which, 100 votes were not counted being casted in favour of the petitioner and therefore respondent No.1 was illegally declared elected Sarpanch by the margin of 36 votes.

4) In the facts of the case, it is found that petitioner did not make any application before the District Judge for summoning the details from various polling booths nor did he raise any such ground in his election petition to this effect so as to show that total of the votes casted in each polling booth comes to 2098 votes.

5) On perusal of finding on Issue No.1, I find that the learned District Judge held all the ballot boxes and not the ballot papers re-counted and on recounting it was found that petitioner had secured 457 votes and not 459 votes as original declared whereas winning candidate respondent No.1 secured 494 votes. In my view, learned District Judge rightly did not find any illegality in the election of respondent No.1.

6) Learned counsel for the petitioner at this stage prays for filing application for summoning the record particularly the details of the different polling booths, all the ballot papers issued and the votes casted.

7) I am afraid, petitioner cannot impress upon his case in the present proceedings. The writ of certiorari before this Court is confined to the challenge as to whether the order passed by the Election Tribunal suffers from any error apparent on the face of record or not.

8) I do not find that the order dated 26/10/2005 passed by the learned Election Tribunal i.e. District and Sessions Judge, Baran suffers from any error apparent on the face of record so as to justify interference by this Court in this writ of certiorari.

The petition is accordingly dismissed being devoid of merit. There shall be no order as to costs.

(MOHAMMAD RAFIQ), J.

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